

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF	§	CRIMINAL ACTION NO.
AMERICA,	§	4:20-CR-00353
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
MALCOLM JEROME	§	
JOHNSON,	§	
Defendant.	§	

MINUTE ENTRY AND ORDER

Minute entry for proceedings before Judge Charles Eskridge. Motion hearing. All parties present in person.

The Court addressed the motions by Defendant Malcolm Jerome Johnson to suppress evidence and to compel discovery and production. Dkts 35 & 42.

Opening arguments heard. Defense exhibits 1, 2, 3, and 4 were offered and admitted without objection. Witness testimony heard from Officer Coleman Smith, US Marshals Service Gulf Coast Violent Offenders Task Force. Closing arguments heard.

The Court found the search and seizure of the subject evidence to be constitutionally infirm for reasons stated on the record. The motion to suppress was GRANTED to that extent. Dkt 35.

The Court addressed the question of appropriate remedy. The parties were ordered to submit briefing on the question whether, given the finding of a constitutional violation of Defendant's rights, that violation should result in the suppression of the evidence seized. See Dkt 37 at 2. Briefing should comprehend at least the following decisions: *Hudson v Michigan*, 547 US 586 (2006); *Davis v United States*, 564 US 229 (2011);

Herring v United States, 555 US 135 (2009); and *United States v Chavez-Villarreal*, 3 F3d 124 (5th Cir 1993).

An opening brief from the Government must be filed by November 5, 2021. Response from Defendant must be filed by November 26, 2021. A reply from the Government may be filed by December 6, 2021, if desired.

Additional time may be freely sought, if needed.

The motion to compel is DENIED AS MOOT. Dkt 42.

SO ORDERED.

Signed on September 30, 2021, at Houston, Texas.

A handwritten signature in black ink, reading "Ch R Eskridge II". The signature is stylized with a large "Ch" and a prominent "II" at the end.

Hon. Charles Eskridge
United States District Judge